



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,011	10/28/2003	Vaughn L. Baucr	2-5751-001	4258
803	7590	09/12/2007	EXAMINER	
STURM & FIX LLP			MCGOWAN, JAMIE LOUISE	
206 SIXTH AVENUE				
SUITE 1213			ART UNIT	
DES MOINES, IA 50309-4076			PAPER NUMBER	
			3671	
			MAIL DATE	DELIVERY MODE
			09/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/695,011	Applicant(s) BAUER, VAUGHN L.	
	Examiner Jamie L. McGowan	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 27 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Requiring at least 4 wing sections on each side of the center section was not disclosed in the initial specification nor was it illustrated in the drawings. Previous rejections on claims of more than two wing sections were given art rejections because they read on a total of 4 wing sections, not 4 wing sections on each side.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 11-14, 19-26 and 28-31 rejected under 35 U.S.C. 102(e) as being anticipated by Shoup (6,902,010).

Regarding claims 1, 11, 19 and 24 Shoup discloses a method of providing a forwardly folding toolbar comprising:

Art Unit: 3671

- Operatively attaching a center section (175, 181) to the tongue (121) (which has an extended length and a contracted length) of the toolbar at a substantially right angle (Figure 1)
- Operatively, pivotally attaching an inner end of an inner wing section to each end of the center section (175, 181) on a substantially horizontal pivot axis (186a)
- Operatively, pivotally attaching an inner end of an outer wing section to an outer end of each inner wing section (at 186b), the outer wing section having an outer end wherein a distance between the outer end of the outer wing section and the inner end of the inner wing section is greater than a distance between the inner end of the outer wing section and the inner end of the inner wing section
- Adjusting the length of the tongue to cause a rotating of both wing sections at pivot points located on the center section to bring outer ends of the wing sections forward until the wing sections lie substantially parallel to the tongue, the outer end of the outer wing section disposed more forward than the inner end of the outer wing section (column 10 lines 45-49)

Regarding claims 19 and 26, Shoup further discloses that:

- the center section (175, 181) comprise a stationary portion (175) operatively, rigidly affixed to the tongue, and a pivoting portion (181), operatively, pivotally attached at an inner end to an outer end of the stationary portion at a substantially vertical pivot axis (183)
- two wing sections (Figure 23) each operatively pivotally attached end to end to one another on substantially horizontal pivot axis (186b), the center section and at least two wing sections lying substantially linearly in an operating configuration (Figure 23)
- folding means operatively attached to the tongue for rotating the pivoting portion of the center section and the at least two wing sections at the substantially vertical pivot axis (183) to bring an outer end of the pivoting portion of the center section

Art Unit: 3671

and the at least two wing sections forward until the pivoting portion of the center section and the at least two wing sections lie substantially parallel to the tongue and substantially linearly from each substantially vertical pivot axis (183) to an outer end of an outermost wing section (Figure 25) (Claim 19)

- a pivot joint (186a) on a substantially horizontal pivot axis, at which an inner end of an innermost wing section of the at least two wing sections is operatively pivotally attached to the pivoting portion (181) of the center section (175, 181) wherein the pivoting portion of the center section and the at least two wing sections lie substantially parallel to the tongue and substantially co-linearly from the substantially vertical pivot axis of the center section to an outer end of an outermost wing section and whereby the forward portion of the tongue is disposed more forward than any part of the at least two wing sections in a transport position thereof (claim 26)

Further, regarding claims 24 and 25, Shoup discloses that when the wing sections are rotated forwardly, the tongue extends and is thereby caused to be disposed more forward than the both wing sections (Figure 25) so that the tongue can be attached to a tractor.

Regarding claims 2-4 and 12-14, Shoup discloses that there are wheels supporting the center section, the pivot points, and the outer ends of the implement (Figure 23).

Regarding claim 19, the toolbar is forwardly folding.

Regarding claim 21, the forward end of the tongue is adapted to be attached to a rear end of a prime mover (column 3 lines 49-50).

Regarding claim 22, a hitch is disposed on a forward end of the tongue, said hitch being adapted to be attached to a rear end of a prime mover (column 3 lines 49-50).

Regarding claim 23, the method includes attaching a forward end of the tongue to a tractor for towing the implement forwardly (column 3 lines 49-50).

Regarding claim 28 and 30, the method further includes:

- operatively, rigidly attaching the stationary portion (175) to the tongue (121)
- operatively, pivotally attaching the first pivoting portion (181) to the stationary portion (175) at a first one of the pivot points (183) located on the center section
- orienting a first pivot axis (183) of said first of the pivot points located on the center section to be substantially vertical
- operatively, pivotally attaching the second pivoting portion to the stationary portion at a second one of the pivot points located on the center section
- orienting a second pivot axis (183- opposite side) of said second of the pivot points located on the center section to be substantially vertical

Regarding claims 29 and 31, the center section of the implement comprises:

- a stationary portion (175), operatively rigidly affixed to the tongue (121)
- a first pivoting portion (181) pivotally attached to a first end of the stationary portion (175) by a first of the pivot points (183) at a first substantially vertical pivot axis
- a second pivoting portion (181 – opposite side) pivotally attached to a second end of the stationary portion by a second of the pivot points (183 – opposite side) at a second substantially vertical pivot axis

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 3671

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5-10 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shoup (6,902,010) in view of Friesen et al. (5,113,956).

While Shoup discloses the invention as described above, it does not specifically disclose that the wing sections are raised above the ground before they are folded upward towards the tongue for transport. Like Shoup, Friesen discloses a forwardly folding implement with an extendable and retractable tongue. Unlike Shoup, Friesen further discloses that actuators (118) raise the wing portions out of ground engagement before the wings are pivoted forward (column 5 lines 22-26). It would have been obvious to one of ordinary skill in the art to utilize actuators to first lift the wings out of the ground before they are rotated forward in Shoup as taught by Friesen et al., to reduce the strain on the actuators that are pivoting the wing sections forward by removing them from ground engagement before moving the wings to a transport position.

Regarding claims 7-10, 17 and 18, the combination of Shoup and Friesen et al. further discloses that the wing sections are then lowered back down for engagement of a latch (94 and 44 - Friesen) once the wing sections are parallel to the tongue (column 5 lines 47-51).

Response to Arguments

5. Applicant's arguments with respect to claims 1-31 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamie L. McGowan whose telephone number is (571)272-5064. The examiner can normally be reached on Monday through Friday 8:00 AM to 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on (571)272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jamie L. McGowan
September 6, 2007


for
Thomas B. Will
Supervisory Patent Examiner
Group 3600